



## BETTER LAND GOVERNANCE LAWS

FOR WOMEN'S EMPOWERMENT; TO ENHANCE SMALLHOLDER CONTRIBUTION TO NATIONAL FOOD SECURITY; ENSURE A RIGHTS-BASED APPROACH TO LARGE-SCALE INVESTMENTS AND LET COMMUNITIES DEVELOP



*Contributing to the legislative reform process on land in Sierra Leone, the Land for Life Consortium in Sierra Leone presents this brief as its position on behalf of the larger population of vulnerable land owners, users, women and youth whose voices have not been adequately listened to throughout the high-profile level consultations so far facilitated by Government.*



**Chiefs**



**Youth**



**Women**

## 1 Introduction

The Government of Sierra Leone is currently engaged in reforming land governance laws. The civil society sees this as a golden opportunity for everybody to get involved. Our involvement is necessary because when government makes good laws, this will have a significant impact on all land-based investments, and this will subsequently contribute to addressing the numerous socioeconomic challenges associated with land – key amongst these challenges is food insecurity. If on the other hand, the laws turn out to be more business-oriented and not in line with international human rights standards, the effects can potentially be more catastrophic than now that the laws are said to be weak. So, the question is: **How do we support Government to make the laws people-oriented and better than how they are at present?**

In the process of supporting Government to make land governance laws better, the Land for Life - Sierra Leone Consortium in partnership with other civil society organizations, including its development partners; are happy about Government's effort to legislate two laws on land this year – the National Lands Commission and the Customary Lands Rights Acts.

We would like the general public and Government to know that the civil society is closely following the legislative reform process with keen interest. This interest has led us to not only attend all consultations organized by Government but have also gone further to facilitate more detailed and inclusive engagements at district levels, involving chiefdom and community level participants.

While we appreciate the efforts of the Government and its development partners for this step in the right direction, we also want to call attention to the weaknesses observed with regard to the consultative process, and go further to present findings from our district level consultations, in the form of Policy Brief. As we continue to work and support Government in all positive endeavours, we demand that these concerns and recommendations be taken into consideration and acted upon in good fate.

### Highlights of our Policy

#### Recommendations from the Civil Society for the attention of Government

While we give high credence to the views of the people, we want to use their views as basis and further proffer the following recommendations, which we implore Government to take on board without hesitation:

- i. **Land Governance laws to empower communities and not subject them to dispossession and abject poverty**
- ii. **Land is a livelihood source for community people and also a valuable resource for every investment. Government to make laws that quantify land into monetary terms as contribution for shares in investments**
- iii. **Government to strengthen bi-lateral ties with home countries of investments entities for their effective compliance with national laws**
- iv. **Government to provide alternative support for smallholder land users to enhance their investment output**
- v. **Government to prioritize the interest of women and youth in all land negotiations**
- vi. **Undertake broad-based, inclusive, participatory consultation on the Land Bills in every district of this country, specifically engaging interest-based groups like the local authorities, women, youth and people with disabilities.**

### 1.1 The Context

Land, by all indications, is a highly valuable and therefore an indispensable factor for the livelihood of over 70% of the citizens of Sierra Leone. It is also a crucial resource for every investment.

While Government is caught in the feat of stimulating investment, the very fact that land-related matters are contentious because they are politically, economically and culturally entrenched – the seriousness of these issues should not be overlooked. This thus demands the need for the enactment of the right laws for a multitier goal – an enabling



environment for responsible investments in food systems and agriculture for increased revenue, sustainable socioeconomic and sociocultural protection for vulnerable groups, especially women, youth and persons with disability; and above all to consolidate societies for national security.

In this brief, Land for Life Consortium presents a balanced argument in favour of citizens' right to access, have own and control over land for their existence and sustainable development and for responsible investments in land which, by mandate should promote food security, inclusive economic development to eradicate poverty, foster gender and women's and youth empowerment, respect tenure of land, fisheries and access to water, conserve and sustainably manage natural resources, increase resilience and reduce disaster, respect cultural and traditional knowledge and support diversity and innovation; and above all promote safe and healthy food systems. These are embedded in the UN Voluntary Guidelines on the Responsible Tenure of Land and other Resources (VGGT) as well as the 10 Principles for Responsible Agricultural Investment in Food Systems and Agriculture (CFS-RAI), developed and monitored by the Committee on World Food Security of the Food and Agricultural Organization, in line with Human Rights standards.

## 1.2 The Problem

Many schools-of-thoughts have now placed Sierra Leone at a level little ahead of many other African countries in terms of Government's commitment to making the right policies and laws on land. However, there has been criticism that the reform process is happening at snail pace and lacks the full involvement of the most affected land owners and users.

In an instance, the National Land Policy 2015 has not been enacted into law, making it not enforceable. In addition, like many other African countries, Sierra Leone still suffers from an ineffective legal system and weak governance institutions on land. This problem in many ways has impeded investment growth and has exacerbated instability in the regions, especially where communities and large land-based investors do not agree on tenure terms.

The move by the Government to translate the Land Policy into laws, is very welcoming. However, civil society has concerns regarding the inadequacy of the regional level consultations previously done. The process seemed to be skewed towards high profile people in decision making positions like government representatives, Paramount Chiefs etc. with very little space given to the affected land-owners, users and other vulnerable groups to be heard.

### The Land for Life Initiative

The Land for Life Initiative is a joint endeavor of civil society partners in four African countries (Burkina Faso, Ethiopia, Liberia and Sierra Leone), supported by the German NGO Welthungerhilfe (WHH), the Civil Society Academy (CSA) and the German Ministry for Economic Collaboration and Development (BMZ).

The Initiative aims to contribute to the formulation and implementation of policies on land governance and agricultural investments that are consistent with international standards and in particular the human right to adequate food. Given the complexity and high relevance of land tenure and agricultural investments in the fight against hunger and poverty, it is vital to establish processes and platforms that bring together all relevant stakeholders. The Initiative thus promotes multi-actor dialogue and collaboration; fostering notably the meaningful participation of local communities and their representatives.

The Land for Life-initiative is financially supported by the German NGO Welthungerhilfe and the German Ministry for Economic Collaboration and Development (BMZ). It is linked to processes and organizations in other African countries where similar dialogue processes are being facilitated (see: <https://www.landcoalition.org/en/explore/our-work/multi-stakeholder-platforms/>).

Specifically, here below are the problems we have with the process. Particularly in view of those limitations, we call on the Government and its development partners to take the community concerns generated from the engagements held at district level into serious consideration.

- i. **The decision to limit sub-national consultations to regional level, violates the unanimous decision of the Technical Working Group on Land.** – At a national level multi-stakeholder consultative meeting held at St. Anthony’s hall on the 6<sup>th</sup> of December, 2019, it was proposed that the Ministry of Lands, on behalf of Government, carries out sub-national consultations in every district of Sierra Leone and in addition conducts specialized conflict-sensitive chiefdom level consultations where land-based investments are currently active. This proposal was initially made during a normal planning meeting of the VGGT Technical Working Group. The proposal was unanimously endorsed by the general membership present for the attention of Government. It is disappointing that such call was blatantly ignored.
- ii. **The most-affected rural people who are Landowners and Land Users were not significantly involved in the regional level consultations.** – We have vetted the participants list for the regional level consultations and proposed national validation workshop and found out that the list largely catered only for highly placed personalities like heads of government institutions, local council leaders, paramount chiefs and the private sector. We didn’t see names of people drawn from the truly affected landowners, users, women and youth at chiefdom or community levels. We are concerned that the views of these landowners and land users, and other vulnerable groups have been ignored, thus any decisions resulting from these consultations may not represent their concerns and aspirations.
- iii. **The process didn’t give adequate time for participants to vet the draft bills.** - We argue that the engagement methodology employed during the consultation sessions didn’t give sufficient time to the participants to adequately critique the draft bills and make informed decisions. In most cases, especially at the regional levels, the

draft bills were not printed in sufficient copies so that every participant could have a copy. There is no proof that participants ever had access to the draft bills any time prior to the engagements.

- iv. **The time for the consultations was inadequate.** - It is safe to argue that a day was not enough to discuss the two long draft bills, generate a more detailed discussion and be able to document participants views accordingly. Plenary presentations and discussions alone in a big crowd (between 80 to 150 people) are not enough to allow adequate reflection on and capture the most relevant and compelling issues at stake.
- v. **Insufficient consideration given to contentious Issues** - While many people think the bills are still in draft stage, many landowners and users, including land-based investment representatives think some issues in the bills do not represent their views. Thus, they want some provisions reviewed, expunged or strengthened.

## 2 Methodology used in our district level engagements

In view of the observed shortcomings of the consultation process, the civil society Land for Life Consortium in Sierra Leone decided to organize additional ad hoc consultations in 5 districts of the country (Kailahun, Kenema, PortLoko, Pujehun, Tonkolili,) to capture the voices of the people. Each of those consultation processes, that were held between 29<sup>th</sup> January – Feb 7, were attended by approximately 50 participants – coming from communities and chiefdoms where land-related issues are trending. Those 50 people included women, landowners and land users, community leaders including paramount chiefs, youth, people with disabilities, representatives of investment entities and civil society organizations engaged on land governance advocacy.

The engagement processes used different modes of engagement: plenary discussions, participatory inputs, and focus group discussions. Groups were established in line with interest – chiefs, women, youth and investment companies. Each group was to answer three questions:

## The Land for Life Initiative in Sierra Leone

In Sierra Leone, five legally established non-profit national civil society organizations partner as a Consortium to roll out the Land for Life-Initiative. The Network Movement for Justice and Development (NMJD) is acting as Consortium Lead. The other four organizations are: United for the Protection of Human Rights (UPHR), Community Empowerment for Poverty Alleviation (CEPA), Partners Initiative for Conflict Transformation (PICOT), and Sierra Leone Network on the Right to Food (SiLNoRF).

The five national civil society organizations have interlacing organizational mandates and thematic focuses that are contextually relevant to the campaign for responsible land governance reform in the country. Especially the coordinating organization – NMJD; but also, the other four organizations, have experiences in contributing to policy reform and engaging communities on human rights issues, including land governance and people’s right to adequate food through responsible agricultural investment.

The Land for Life-Initiative in Sierra Leone is supported through an international team, composed of Welthungerhilfe staff based in Germany and trainers from the Civil Society Academy. The international support team also facilitates learning and exchange across countries and organizations. At country level, NMJD’s Executive Director acts as the National Convener of the civil society Consortium and works closely with Welthungerhilfe’s Country Directors to provide leadership for the Initiative.

NMJD also host a Secretariat headed by a Coordinator, supported by M&E/Coms officer. The Secretariat provides administrative support to the Consortium partners, each focusing their intervention in one district of the country.

1. What are the issues you want Government to consider and make as part of the land laws?
2. What is already in the draft bills that you want government to remove/amend or change?
3. What further recommendations do you have for the attention of Government and the consultants?

In some engagements, NAMATI and other civil society organizations volunteered to co-facilitate.

## 3 Our findings from district level engagements

### 3.1 Women

Women expressed the following opinions and concerns:

- i. **Paramount Chiefs to cease becoming custodians of all the land in the provinces.** – Women, like all other groups, firmly agreed with the provisions in the draft Customary Land Rights bill – for community land ownership to be placed into the hands of the general populace of the locality and that they would want the law to (repeal Cap 122 of the Provincial Lands Act) take away the sole custodianship of land from paramount chiefs.
- ii. **Women to be granted Legal Right to Access, Control and Use of (family) LAND.** - Women presenting on behalf of their groups, expressed in very strong terms their desire for the Customary Land Rights bill to guarantee them the right to own, access, control and use land.
- iii. **Reduced registration fee for women to have title of ownership to land** – In their presentations, women want Government to levy a reduced registration fee for them in the proposed land titling process, so that poor and vulnerable women can easily register their land and own title deeds to those land. When a male participant argued that many men would abuse this right by allowing their wives to register family lands under their names, the response was that this would also mean that women will be the title owners of more family lands.

- iv. **Investment companies to create sustainable alternative livelihood opportunities for women.** – It was commonly shared across all presentations that investors should create alternative livelihood and income opportunities for women. Women said they want it to be expressed in the Customary Land Rights bill that an investment company that has secured land in any community, has the obligation to invest a certain percentage of its investment into creating alternative livelihood opportunities for poor and vulnerable people especially women, whose lands have been taken away from them.
- v. **Inclusive land governance that guarantees women’s active participation in decision-making arrangement for land.** – Women said they would want equal representation at all levels of land administration. But first, they want heads of those committees and structures, to be independent and gender sensitive. They want effective gendering in land governance, and that women should be included among those who take the final decision on land related matters.
- ii. **Reduction of maximum lease period from 50 to 25 years.** – The youth were the first to raise this point before they received full support from women and the chiefs. They argued that Sierra Leone’s life expectancy rate is being placed at about 50 years. On that note, they think it would be fair with their next generations that they sign agreements only for their living period, and not on behalf of their unborn children. They believe by the time most of the lease periods expires, they wouldn’t be alive to explain any terms to their children and that their unborn generations may end up questioning some of those agreements.
- iii. **Government to set the floor for minimum lease rent and youth to have a 40% quota from the lease fees paid by investment for the use of community land.** – Youth, either through their presentations or during plenary discussions, were highly concerned about the low level of lease fees that investments are currently paying. They said investments entities have cited the National Land Policy as the legal document that permits them to pay a maximum of 12.5 USDs per hectare of land. Instead of Government placing the ceiling, they want Government to indicate a reasonable amount far above 12.5USD as the minimum lease fee an investment can pay for the use of an acre of land. In Port Loko, participants cited a lease agreement signed in the colonial era for which the tenant was willing to pay 94 British Pound Sterling for an acre of land per year. They demand explanation from Government on how the 12.5 USD ceiling was determined. They also call for a re-activation of that payment schedule.
- iv. **Maximum land mass that an investment can acquire at once, be reduced to 3000 Ha.** – In addition to reducing the maximum lease period to 25 years, youth in some districts further demanded that the maximum land that an investment company can secure at a time be reduced to 3000 ha. They said regardless the fact that the National Land Policy restrains investors from acquiring more than 5000 Ha, they could cite many instances where investors had

### 3.2 Youth

The youth came forward with the following demands and concerns:

- i. **Land-based Investments to create sustainable employment opportunity for youth.** – In all their presentations, the youth spoke highly on the lack of sustainable employment in their communities, especially where land-based investments have leased large areas of their productive land for a kind of investment that they say does not put food on their tables. As alternative source of livelihood for the use of their land, the youth want the new laws to expressly state as part of the contractual agreement, the commitment to create sustainable employment as imperative. They cited instances where land-based investments were only able to provide temporal jobs for youth, and that youth were being recycled after every three to six months period - just so that the youth could not lay any legal claims of sustainable benefits like NASSIT contributions or End of Contract benefits.

secured far more than the 5000ha threshold, and that such lands were secured at a go without any adequate Free Prior-Informed Consent of the land owners. In addition to reducing the 500ha threshold to 300ha, the youth further recommend for effective monitoring of the proposed law in order to foster compliance.

### 3.3 Chiefs and Community Leaders

The Chiefs and Community Leaders came forward with the following demands and concerns:

- i. **Government to effectively implement the proposed laws and monitor compliance.** – In support of the legislative reform process, chiefs want Government to not only legislate laws, but to enforce them fully and monitor compliance. They particularly cited instances where investment companies are obliged to undertake certain development works, but later do not comply once they have their papers signed. The chiefs said most times, investment companies refuse to comply with their commitments when Government does not strictly enforce laws and monitor compliance. They now want the proposed laws to be fully enforced.
- ii. **Chiefs to be the heads of the respective land committees.** – The chiefs want to remain relevant in land administration. They first opposed the proposal for the complete annulment of Cap 122 of the Provincial Lands Act, and further proposed that each of the land committees – at community and chiefdom levels – be headed by a chief in whose jurisdiction the committee exists.
- iii. **Local Councils and Senior District Officers to play active role in provincial lands commission.** – In addition to the chiefs heading various land committees, they further want land administration to be fully decentralized and for the district officers and/or senior district officers and local council chairmen and mayors to play a pivotal role in the registration and management of the land title cadastre.
- iv. **Further consultations on the draft bills for a more detailed understanding.** – Some of the community leaders had very high interest in the

draft bills. Though they had copies distributed to them, they still wanted the session to last for another day, to enable them to read the draft bills properly and make better recommendations. They were not confident whether the regional level consultations would give them that opportunity. Therefore, they thought government could facilitate another sub-level engagement before the bills are sent to the Law Officers Department and subsequently to Parliament.

### 3.4 Investment Entities (Pujehun and Tonkolili)

The investment entities that participated in the consultation processes organized in Pujehun and Tonkolili came forward with the following requests and concerns:

- i. **Protection of large-scale investors.** – Representatives from the land-based investments observed that, although the legislative reform process was a laudable and timely venture, they however thought the draft bills are more skewed in the interest of the landowners than investors and land users. In amends to this, they proffered that Government includes some stringent provisions that can stimulate and protect land-based investment in Sierra Leone.
- ii. **Government to create more opportunities for investors to access funding facilities from donors and partners.** – In addition to the protection of investment, the investments entities further call upon Government to open further investment opportunities for other investors and also link infant industries to potential funders.
- iii. **The 75% community adult approval options should permit only resident adults in the communities be eligible to vote.** – The investment representatives raised that, in most cases, communities are incited by non-residents against investments. These, they said are mostly relatives who are elites – who would come and convince the communities to appoint them as their legal representatives to investors, but later turn out to collect lease payments without fairly distributing the money among the rightful community members, and instead continue to give wrong



information to the communities with the intention to destroy the good image of the investment. If the Government would want to address community dissatisfaction, let the 75% adult voters come only from permanent residents of that community who would take decision on land matters of their communities.

- iv. **Lease period to be determined by the type of investment** - In direct response to call for lease period to be reduced from 50 years to 25 years, the investment spokespersons provided an alternative idea for the bill to peg lease period to the kind of product being produced on the land. They argued that it would be unfair for the same lease period to apply for an agribusiness investment planting permanent trees as to that of a miner.
- v. **Appraisals for best-performing investments.** – The investment companies said in as much there are penalties for wrong doing, there should also be some form of incentive for investments that comply with the laws and that are making frantic effort to contribute to community development through either Corporate Social Responsibilities or their legal obligations. They want Government to certify such investment entities with good practices and consider tax holiday for a given period of time.

#### 4 Policy Recommendations from the Civil Society

While we give high credence to the views of the people, we want to use their views as basis and further proffer the following recommendations, which we implore Government to take on board without hesitation:

- i. **Land Governance laws to empower communities and not subject them to dispossession and abject poverty.** – The landowners, users, women, youth and civil society as well as chiefs proposed to reduce the lease period to 25 years and to increase the commitment of land-based investments to addressing socioeconomic challenges faced by vulnerable groups like youth and women. They want increased lease fees etc. The civil society strongly supports those

proposals and further implores Government to prioritize the socioeconomic, cultural and environmental safety of its people. The civil society understands Government's desire to attract investment, but strongly opposes any investment venture that falls outside the humanitarian context as well as human rights and good governance standards.

- ii. **Land is a livelihood source for community people and a valuable resource for every investment. Government to make laws that quantify land into monetary terms as contribution for shares in investments:** The people want their land to be valued highly. We recommend that landowners own a considerable percentage in all land-based investment according to the kind of investment and the overall value of the franchise. The mining for instance takes away everything from the land, including the minerals and the land's agricultural juice. When communities are not made to get shares in such investments, they are being robbed off their personal property. This action should not be authenticated by the weak laws legislated by Government in the bid to lure investors. While Government is entrenched in the process of not wanting to lose investors, the peoples' dignity, freedom and access to natural resources, their cultural, political and environmental safety, should always be a priority.
- iii. **Government to strengthen bi-lateral ties with home countries of investments entities for their effective compliance with national laws:** The essence of countries twinning or entering into other diplomatic relationships, is the objective of obtaining shared benefits. We observe that most times, multinational investment entities tend to understand the risk they face if their home countries are made aware of their wrong deeds elsewhere. In the process of avoiding doing wrong, they find themselves in safe haven in countries with weak legislature. They do the wrong thing rightly within the ambit of weak laws. We are certain that the government of Sierra Leone can readjust their diplomatic relationships with certain countries based on how such countries are helping to regulate investment entities registered with their governments (i.e. with those governments that have enacted



laws to ensure human rights compliance of companies along the entire supply chain).

**iv. Government to provide alternative support for smallholder land users to enhance their investment output:**

In as much as communities want land-based investors to incorporate out-grower schemes, Government can make smallholder land users more productive by directly supporting them with adequate skills, finance and tools. There is a lot of land available to be cultivated by youth, for example. With adequate support of the Ministry of Agriculture, these youth, women and other vulnerable groups can have alternative source of creating wealth and support domestic investment. The civil society is seriously perturbed by Government's seemingly lacking interest in the potential within its reach. In the process of making new laws for use of land, it should be a legal obligation of Government entities on land to institute innovative actions that promote smallholder investment in land.

**v. Government to prioritize the interest of women and youth in all land negotiations:**

Women and youth are by far the most vulnerable, poor and marginalized groups of people affected by all land related instabilities. They are equally the once with the requisite potential to make alternative use of land in case no foreigner is interested to invest in the country. Women and youth are the major stakeholders in the smallholder sector. In their submissions during the pre-consultations, the youth stressed the need for employment opportunities, women want gender equity, they all want support from their Government. Government should therefore prioritize their interest at all the time - with or without investors. The proposed land laws should have a provision to oblige line ministries to invest seriously in these groups of citizens.

**vi. Undertake broad-based, inclusive, participatory consultation on the Land Bills in every district of this country, specifically engaging interest-based groups like the local authorities, women, youth and people with disabilities. These groups need to be able to provide their own inputs into the laws. The land is more for those who live on and survive by the land. How it is governed,**

utilized and managed should be first and foremost for them to have a say on it. We therefore recommend that the consultations are redone to cater for the remaining districts and the groups mentioned. This needs to take place before any general national event takes place.

## 5 Conclusion

In conclusion, we assure the Government of a continuous unqualified cooperation, support and collaboration in making land governance effective in Sierra Leone, in line with human rights standards and international best practices. While we consider the current legislative reform process as the best time to make amends, we are constructively opposed to any undue pressure from whatever sources on the reform process. We respect the views of the high-profile personalities already consulted, but we also want the proposed laws to represent the views and aspirations of the affected land owners, users, women, youth and people with disabilities who are in the majority.

## 6 Further Resources

**Appendix 1:** The Full Report of Land for Life District level pre-consultations;

**Appendix 2:** Country Assessment Report on Land

## 7 References

1. *The Agribusiness Investment Approval Process (AIAP)*
2. *The VGGT*
3. *The National Land Policy*
4. *The Full Report of Government's Regional Level Consultations*
5. The 10 Principles of Responsible Agricultural Investment (RAI) developed by Community on Food Security of FAO

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